



JON S. CORZINE
GOVERNOR

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PO BOX 269
TRENTON, NJ 08695-0269

R. DAVID ROUSSEAU
STATE TREASURER

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Property Administration
Fax: (609) 292-9439

**TO: MUNICIPAL ASSESSORS AND
COUNTY TAX ADMINISTRATORS**

**FROM: MAUREEN ADAMS, DIRECTOR
DIVISION OF TAXATION**

**JOSEPH V. DORIA, JR., COMMISSIONER
DEPARTMENT OF COMMUNITY AFFAIRS**

**SUBJECT: A500 ON AFFORDABLE HOUSING PASSES BOTH
HOUSES OF THE NEW JERSEY LEGISLATURE**

Assembly Committee Substitute for Assembly Bill A500, "An Act concerning affordable housing, revising and supplementing various parts of the statutory law" recently passed both houses of the Legislature. Companion bill S1783 was substituted by A500. A500 now awaits the Governor's signature. When enacted, this bill becomes effective immediately. The Division is informing you of the provisions of this bill which, when signed into law, have **immediate impact** on our collective job responsibilities. Please review this bill at <http://www.njleg.state.nj.us> by clicking on the specific bill number, A500. The Department of the Treasury is working with the Department of Community Affairs on uniform methods for implementing the non-residential development fee including calculation, collection, and appeal procedures.

The portions of this bill that impact assessors are found in Section 35, paragraph e. outlining the procedure and timing for the calculation of this new development fee (Pages 47-52). The following are highlights of these new provisions and how Treasury and Community Affairs are attempting to address them:

- The law requires the construction official responsible for issuing building permits to notify the assessor of the issuance of the first building permit for a development that may be subject to a non-residential development fee. Within 90 days of receipt of that notice, the assessor provides an estimate of the equalized assessed value of the non-residential development based on the plans filed. The construction official responsible for the issuance of a final certificate of occupancy (CO) shall notify the assessor of any and all requests for the scheduling of a

final inspection on property which may be subject to a non-residential development fee.

- The assessor, within 10 business days of a request for the scheduling of a final inspection, shall *"confirm or modify the previously estimated equalized assessed value of the improvements of the non-residential development in accordance with the regulations adopted by the Treasurer pursuant to P.L. 1971, c. 424 (C. 54:1-35.35), calculate the non-residential development fee...and thereafter notify the developer of the amount of the non-residential development fee."*
- The Departments will adopt regulations which provide guidance on communication between assessors and code officials, but regulations will not be completed by the time A500 is enacted into law. Please begin discussions with your code official to identify all applicable non-residential development effectively and efficiently.
- The provisions of the new law shall not be construed in any manner as affecting the method or timing of assessing real property for property taxation purposes. The payment of a non-residential development fee shall not increase the equalized assessed value of any property.
- The State Division of Revenue is endeavoring to have a portal established to accept electronic payment and issue confirmation by the time this bill becomes law.
- In municipalities that are under the Council on Affordable Housing's jurisdiction pursuant to the Fair Housing Act, developers will continue to pay fees directly to municipalities for deposit into the municipality's Affordable Housing Trust Fund in accordance with COAH's regulations and pursuant to the bill.
- The Division of Taxation is working with the Department of Community Affairs to establish a form for this process. The form will be developed on the basis of the experience of numerous communities that have been imposing and collecting development fees under the Council on Affordable Housing regulations. A draft of this procedure is outlined as follows:
 1. The construction official provides the assessor with a one page form/certification. The developer completes the first section, which identifies the property and contains a sworn statement as to whether the developer is claiming an exemption from the fee. The construction official will receive the form with the completed identifying information and forward it to the assessor at the time the first construction permit is requested.
 2. The assessor then completes the next section with estimated and final assessed values, equalized assessed values, and developer fee. The final developmental fee that the assessor will

complete is calculated by multiplying the equalized assessed value by 2.5%.

3. The completed form/certification will be provided to the construction official and developer.
4. Upon receipt of the form, it is the developer's responsibility to tender payment and provide the construction official with confirmation that payment was made. This will either be in the form of a receipt from the municipality or a printed confirmation from the Treasurer.
5. The construction official then compares the form which the assessor provided with the receipt. If the form matches the receipt, the construction official may issue the certificate of occupancy (CO).

As used in the proposed law (refer to Section 34), "equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with P.L. 1973, c. 123 (C. 54:1-35a through C. 54:1-35c)." The applicable average ratio can be found on the Division of Taxation's Internet Website at <http://www.state.nj.us/treasury/taxation/lpt/lptvalue.htm>.

The bill also contains provisions wherein a developer may challenge the imposition of the non-residential development fees by filing a challenge with the Director of the Division of Taxation.

Since it is possible that the final version of this bill as signed by Governor Corzine may contain modifications and amendments to the existing bill, an updated instructional memo will follow upon enactment.

Enclosed with this memorandum is a copy of the letter that is being sent to local construction officials by the Department of Community Affairs, Division of Codes and Standards.

MA: GDC